

EXHIBIT 3

1
2 UNITED STATES DISTRICT COURT
3 EASTERN DISTRICT OF NEW YORK
4 1:18-CV-05775-ERK-CLP

5 -----x
6
7 STAR AUTO SALES OF BAYSIDE, INC.
8 (d/b/a STAR TOYOTA OF BAYSIDE), STAR
9 AUTO SALES OF QUEENS, LLC (d/b/a STAR
10 SUBARU), STAR HYUNDAI LLC (d/b/a
11 STAR HYUNDAI), STAR NISSAN, INC. (d/b/a
12 STAR NISSAN), METRO CHRYSLER
13 PLYMOUTH INC. (d/b/a STAR CHRYSLER
14 JEEP DODGE), STAR AUTO SALES OF
15 QUEENS COUNTY LLC (d/b/a STAR FIAT)
16 And STAR AUTO SALES OF QUEENS
17 VILLAGE LLC (d/b/a STAR MITSUBISHI),

18
19 Plaintiffs,

20
21 v.

22 VOYNOW, BAYARD, WHYTE AND COMPANY, LLP,
23 HUGH WHYTE, RANDALL FRANZEN AND ROBERT
24 SEIBEL.

25 Defendants.

-----x
2000 Market Street
Philadelphia, Pennsylvania

August 15, 2022
10:09 a.m.

DEPOSITION of MICHAEL KOUFAKIS, a
Plaintiff, held at the above-entitled time and
place, taken before Carolyn Crescio, a
Professional Shorthand Reporter and Notary
Public of the State of Pennsylvania.

* * *

1 M. KOUFAKIS

2 Q. So I don't think we got an answer on
3 who the dealer principal was for Fiat.

4 A. I believe it was my brother Steve.
5 I believe I answered that.

6 Q. And who were the owners of Fiat?

7 A. I believe it was my brother Steven.

8 Q. Hundred percent?

9 A. I believe that was the end result.

10 Q. Now, the dealerships have a position
11 that they refer to as an office manager?

12 A. Yes.

13 Q. And is that essentially the
14 equivalent of a controller, to your knowledge?

15 A. I would not say the equivalent, by
16 my definition.

17 Q. And how would you distinguish the
18 two?

19 A. Office manager, I think is the head
20 person in the office, where maybe a controller,
21 by my definition, would maybe have an accounting
22 degree, a little bit higher level of expertise.

23 Q. So the office manager, by your
24 definition, would be the most-senior level
25 employee in the dealerships accounting

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2 department, correct?

3 A. I would say yes. Correct.

4 Q. And for purposes of the time period
5 we are talking about, roughly 2010 to 2016, '17
6 period, am I correct that Vivian Karouzakis was
7 the office manager for the Nissan Toyota and
8 Subaru dealerships?

9 A. Yes.

10 Q. And in that role she reported
11 directly to you?

12 A. Yes.

13 Q. And you supervised her?

14 A. Yes.

15 Q. She had been hired in 1986 by a
16 predecessor of the Star entities; is that
17 correct?

18 A. Yes.

19 Q. And did she become -- did she move
20 to the position of office manager in the 1990s
21 for an entity known as Island Chrysler?

22 A. Yes.

23 Q. And Island Chrysler was one of the
24 predecessors of the Star entities we are here
25 about, correct?

1 M. KOUFAKIS

2 A. Yes.

3 Q. Her sister Debbie Theocharis, am I
4 correct that she, during that same time period,
5 2010, 2016, '17, she would have been the office
6 manager for the Chrysler and Hyundai franchises?

7 A. Definitely Chrysler. Yes, there was
8 maybe some shared responsibility between the two
9 for Hyundai. But I think it was more Debbie.

10 Q. Okay. And did you supervise her?

11 A. I was the least involved in the
12 Chrysler store. She fell mostly under the
13 direction of my brother Steven. So I would say
14 it depends on what the issue was specifically,
15 at hand. But I'd say mostly it fell under
16 Steven and somewhat under myself.

17 Q. Okay. And am I correct that that
18 position of office manager has since been
19 filled, let's say, at some point in 2017 for all
20 of these dealerships, by Jacque Cutillo?

21 A. Yes.

22 Q. So she now does the job that both
23 Vivian and Debbie did combined?

24 A. Correct.

25 Q. For the dealerships that are named

1 M. KOUFAKIS

2 Q. So do you have -- when you're using
3 the term "review," do you have any understanding
4 as to -- and you're using that in the context of
5 financial statements. Do you have any
6 understanding as to what that means?

7 MR. FELSEN: Objection.

8 A. My understanding is they come in.
9 They sit down with everyone in my office, and
10 they look in detail into what exactly they are
11 doing, going through schedules and verifying the
12 dollar amounts of each of the accounts.

13 Q. And that's what you believe you
14 hired Kera, Weiner to do?

15 A. That's what I know they were hired
16 to do. And that's what I know they did.

17 Q. So who hired them?

18 A. I did.

19 Q. So you would have hired them around
20 1987, '86?

21 A. Let me rephrase that. I think it
22 was closer to '90. I think it was 1990 to 1996.

23 Q. Who was your point of contact there?

24 A. Larry Weiner.

25 Q. Prior to Kera, Weiner, who was the

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2 Q. Explain.

3 A. I get a bill, I glanced at it. I
4 look at the bottom line. I didn't tear it apart
5 in detail.

6 Q. Did the Star entities ever hire an
7 accountant by the name of Nick Chester?

8 A. Yes.

9 Q. So that would have been another
10 accountant that was hired after 2016?

11 A. I wouldn't necessarily say he was
12 hired as an accountant.

13 Q. Okay. What's your understanding as
14 to what he was hired for?

15 A. Another person to -- it was a very,
16 very short engagement. At the time, they were
17 recommended by Voynow, to -- and this was early
18 on. This was in February of 2017 to maybe just
19 verify some of the theft that had -- were
20 discovered up until that point, but not
21 really...

22 Q. So you said to verify the theft that
23 had been discovered up until that point. So --

24 A. I guess you could say to be a fresh
25 set of eyes to look over the books, so to speak.

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2 Q. And would that be Mr. Weiner's firm?

3 A. Yes.

4 Q. And would that be Voynow?

5 A. Yes.

6 Q. And would that be Rosenfield?

7 A. Yes.

8 Q. What's your understanding -- do you
9 have -- strike that.

10 Do you have any understanding as to the
11 difference between the terms "audit," "review" and
12 "compilation"?

13 A. Yes.

14 Q. What is your understanding of what a
15 "compilation" is?

16 A. So I believe it was in the latter
17 half of 1996, when I was interviewing Voynow, it
18 was in my office, at my desk. Randy Franzen was
19 on my right, Hugh Whyte was on my left, and they
20 explained to me the differences between the
21 three.

22 They told me that compilation was just
23 basically a cursory check of the numbers. They had
24 explained to me that reviewed was much more
25 in-depth, and that the highest level was audited

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2 accounting work. I indicated to them that I wanted
3 the highest level, which was the audited. They
4 said that that was -- that was really not
5 necessary, that it was very high in cost, and
6 typically only reserved for publicly-traded
7 companies. But what we ultimately settled on was
8 something -- and Randy specifically told me at that
9 meeting that there was something in between, more
10 than review, but less than audited. And he said
11 when they would come into the dealerships on a
12 quarterly basis, they would send someone, let's
13 say, to the Toyota parts department and do random
14 VIN checks. Then on another meeting, they might go
15 to Chrysler used cars and check -- do a physical of
16 the used car inventory.

17 So it was more than review, but not quite
18 fully audited. That was discussed. That's what
19 they promised. That's what I agreed to, and that's
20 what they did.

21 Q. Okay. So my question was what your
22 understanding was of those terms. And you told
23 me that -- you gave me a reference to a meeting
24 you had with Voynow sometime in '96, correct?

25 A. Yes.

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2 Q. Sure. Do you have any understanding
3 as to why any of the Star entities would pay for
4 audit services, but not require --

5 A. Yeah, because I wanted it.

6 Q. -- but not require audited financial
7 statements?

8 MR. FELSEN: Objection.

9 A. I wanted the highest level of
10 accuracy, as possible.

11 Q. And why was it that you didn't ask
12 for audited financial statements then, if you
13 wanted the highest level of accuracy possible?

14 A. I took Voynow's recommendation, that
15 it was not necessary and overly burdensome and
16 costly.

17 Q. If you believe that you paid for
18 something higher than a review, but not quite an
19 audit, why wouldn't you have at least wanted
20 reviewed financial statements?

21 MR. FELSEN: Objection.

22 A. You're making the assumption it was
23 not.

24 Q. Did you ever get financial
25 statements prepared by Voynow, with an opinion

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2 stating that they reviewed them and what they
3 found?

4 A. They didn't prepare the financial
5 statements, but they reviewed the accounts that
6 were used to prepare the financial statements.

7 Q. Did you ever get anything as far as
8 an opinion from them?

9 A. Not that I can recall.

10 Q. But yet you believe you paid for it?

11 A. I believe that the accounting
12 statements we were producing was just short of
13 an audited statement.

14 Q. And that -- when you say "accounting
15 statement," what is it specifically you're
16 referring to?

17 A. The one the dealership produces for
18 the manufacturers and what is ultimately
19 utilized to ultimately do the tax returns.

20 Q. Are you talking about a balance
21 sheet, an income statement? What are you
22 talking about when you say an "accounting
23 statement"?

24 A. A financial statement required by
25 all of the manufacturers.

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2 courtesy. I don't think I was -- I think just
3 out of common courtesy, before you make a move,
4 you keep them abreast of the situation. I don't
5 think it was required, but I think it's the
6 right thing to do.

7 Q. But as far as the discussion about
8 the level of services that were going to be
9 provided, your brothers were not involved in
10 that? That was you?

11 A. Yes.

12 Q. Now, Voynow was hired to prepare the
13 tax returns, correct, the corporate tax returns?

14 A. Yes.

15 Q. And you, as the officer of the
16 dealerships, were required to actually sign off
17 on the tax returns before they were filed,
18 correct?

19 A. Well, the ones that I could --
20 typically, I don't believe I signed for the
21 dealerships that I had no ownership in.

22 Q. But for the ones that you did, you
23 signed?

24 A. Yeah, yeah.

25 Q. In signing those, did you understand

1 M. KOUFAKIS

2 that Voynow was not obligated or undertaken to
3 verify the information that was set forth on
4 those tax returns?

5 A. Say it again.

6 Q. Sure. As the taxpayer signing the
7 tax returns --

8 A. Are we talking corporate or
9 personal?

10 Q. Corporate. On behalf of the
11 corporation. Did you understand that Voynow was
12 not obligated or undertaken to verify the
13 information that the Star dealership set forth
14 on the tax return?

15 A. They were responsible for true and
16 accurate financial statements.

17 Q. I'm asking you about a tax return,
18 not a financial statement.

19 A. Well, it derives from the financial
20 statement. So I would say maybe not quite to
21 the level of being audited, but I do believe it
22 was their job to verify it.

23 Q. Now, Voynow prepared the 2016
24 corporate tax return prior to being disengaged.
25 Do you recall that?

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2 A. Yes.

3 Q. When did you -- how often did you
4 review their bills?

5 A. I mean, if I signed the check, it
6 would typically be attached to the check. And
7 typically at the end of the year, I would just
8 ask what did we pay them over the last
9 12 months.

10 Q. So would you review the bills at the
11 end of each year, or did you just review the
12 number?

13 A. More the dollar amount. The bills
14 didn't really say that much.

15 Q. Did you ever, at any point, receive
16 anything in writing from Voynow, setting forth
17 the terms of their engagement?

18 A. I said I don't believe so.

19 Q. I think I asked you specifically
20 right after the meeting in 1996. So this
21 question was any point thereafter.

22 A. The only one I can specifically
23 remember I believe was in December of '16, that
24 one was presented to me for the business. I
25 think there was one or two possibly on my

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2 personal. Excluding the personal, I believe
3 specifically in December of '16, one was
4 presented to me.

5 Q. So you said one was presented to you
6 in December of 2016. Do you have a recollection
7 as to how that was presented and who presented
8 it?

9 A. I believe Bob Seibel presented it.

10 Q. In what context?

11 A. At some point it was sent. I don't
12 know if it was an email or mail or discussed. I
13 don't remember specifically. I think at some
14 point I believe it appeared.

15 Q. Do you believe he gave it to you?

16 A. I don't specifically recall.

17 Q. You just remember at some point --

18 A. I think at some point it came up. I
19 don't know if it was at a year-end visit or
20 mailed.

21 Q. But you remember having an
22 engagement letter in front of you --

23 A. At some point it came up. I don't
24 remember exactly how.

25 Q. And this was in December of 2016 --

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2 A. I believe so.

3 Q. -- in connection with a discussion
4 or a meeting with Bob Seibel?

5 A. I believe he brought it up to me.

6 Q. Was the document in front of you?
7 Did he give it to you?

8 A. I don't specifically remember.

9 Q. What do you remember about any
10 discussion or meeting regarding the 2016
11 engagement letter?

12 A. They wanted me to sign it, and I
13 said no.

14 Q. And why did you not want to sign the
15 engagement letter?

16 A. Because the theft with Vivian had
17 already occurred. And quite honestly, I viewed
18 it as revisionist history, cover-your-ass-type
19 move.

20 Q. So the theft of Vivian was
21 discovered at the beginning of December of 2016,
22 right?

23 A. December 1st of 2016. It was
24 brought to my attention the day before.

25 Q. And then this letter was presented

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2 to you later that month?

3 A. I believe so.

4 Q. And you wouldn't sign it because you
5 said you viewed it as cover-your-ass-type --

6 A. Yeah. It was not -- to be honest
7 with you, at that point in time, that was the
8 least of my concerns.

9 Q. Was anybody else present -- did you
10 convey that view to Bob Seibel, when you told
11 him you were not going to sign it?

12 A. Yeah, I believe so.

13 Q. Was anybody else present?

14 A. I don't know if anyone was present
15 for that. No, I don't know.

16 Q. And other than that December of 2016
17 engagement letter, is it your testimony that you
18 had never seen any engagement letters for prior
19 years from Voynow?

20 A. Yes, that I can recall.

21 Q. Did you ever ask at any point of any
22 of your current or now former employees, whether
23 they were aware of engagement letters being sent
24 by Voynow?

25 A. No.

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2 ability. Whether they utilized it or not, I'm
3 not sure.

4 Q. On what basis do you say that they
5 had the ability?

6 A. Because if you have a user ID and
7 password and knew the phone number, you could do
8 it. Afterwards with the VPM, that got more
9 complicated.

10 Q. What did you need after the VPM?

11 A. You needed special software to
12 download on a PC, in order to get past the
13 firewall.

14 Q. Did you decide what level of access
15 somebody has within the system?

16 A. Yes.

17 Q. And what level of access do you
18 believe you provided to Voynow? And if it
19 changed at any point, let me know.

20 A. I believe it was comparable to the
21 office managers.

22 Q. Are you sure about that?

23 A. Pretty sure, because it was a very
24 high-level of access.

25 Q. Were there occasions when Voynow was

1 M. KOUFAKIS

2 on-site and unable to access --

3 A. I don't believe so. And if they
4 did, they may not utilize their own password and
5 log-in. They might ask one of the office
6 managers to do it for them.

7 Q. So does that indicate to you that
8 the office managers had a higher level of access
9 than Voynow, if they had to use an office
10 manager's credentials?

11 A. No. It's just the supposition,
12 which I'm not sure. But there's no reason why I
13 would give them less.

14 Q. So it's your testimony that they had
15 the same --

16 A. Most likely. Most likely. I'm not
17 a hundred percent sure.

18 Q. And is there anything that you have,
19 as far as documentation-wise in your records,
20 that show what level of access you've given to
21 various users for the system?

22 A. It's maintained in the system. It's
23 not something that I printed out and have
24 available.

25 Q. So there would be records that still

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2 correct?

3 MR. FELSEN: Objection.

4 A. I think there was one, a couple of
5 years.

6 Q. So it's your recollection, that at
7 least for a couple of the years, you received
8 written engagement letters from Voynow for your
9 personal tax returns?

10 A. Yes, I believe so.

11 Q. And where did you receive those
12 documents? Do you recall?

13 A. I believe they were mailed to my
14 home.

15 Q. So on the occasions where you did
16 receive engagement letters for your personal tax
17 returns, did you sign them?

18 A. I think I signed one.

19 Q. Was there a reason you didn't sign
20 the others that you received?

21 A. No particular reason.

22 Q. So as you sit here today, there was
23 not anything in the engagement letter that you
24 disagreed with? You just never got around to
25 signing it?

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2 A. I think so.

3 Q. How much?

4 A. A monetary reward. Maybe a thousand
5 dollars.

6 Q. Did anyone advise you around this
7 time that you should clean house in your
8 accounting department?

9 A. Yes.

10 Q. Who?

11 A. Hugh Whyte.

12 Q. And in what context? Was this a
13 phone conversation?

14 A. Yes.

15 Q. When did you have a phone call with
16 Mr. Whyte?

17 A. Shortly after this incident was
18 discovered with Vivian.

19 Q. And you did not follow that advice;
20 is that fair to say?

21 A. Not immediately. It was not
22 possible.

23 Q. Well, did you advise him that you
24 would follow that advice, or did you say, No, I
25 think this is just Vivian?